



Spokane RIVERKEEPER®

For a Fishable and Swimmable Spokane River

March 23, 2015

Cheryl Niemi
Washington State Department of Ecology
Water Quality Program
P.O. Box 47600, Olympia, WA 98504-7600

Dear Ms. Niemi,

Thank you very much for the opportunity to comment on the proposed Water Quality Standards for Surface Waters of the State of Washington, Chapter 173-201A WAC.

The Spokane Riverkeeper is a non-profit organization that serves as a public advocate for a clean and healthy Spokane River. Our stated mission is to recover a *fishable and swimmable* river that is sustained for generations by appropriate innovations, stringent law and intelligent policy. Our program closely watches water quality issues and considers them some of the more important aspects of maintaining a healthy river.

The comments that follow are underpinned by four major assumptions:

1. That the intention of the Clean Water Act (CWA) is to make continual and steady progress in cleaning up our waters from the legacy of pollution that began in the early 20th century. The goal of the CWA was to recover fishable and swimmable waters by 1983. Currently, much of our water has identifiable amounts of toxins in them and fish advisories continue to be a fact of life for a public that uses Washington's waters.
2. The public has a right to experience healthy ecosystems that support populations of fish that (where biologically appropriate), are edible and whose flesh is free of toxins.
3. Washington State has many people and cultural populations that eat locally sourced fish from public waters, and it is the responsibility of WDOE to protect these members of the public from pollutants and sources of pollution.
4. The proposed Water Quality Rule for Surface Water should be geared to protect those citizens that are the highest consumers of Washington fish and therefore are the most exposed to the risk presented by water-borne and bio-accumulated toxins.

Having said that, the Spokane Riverkeeper recommends that you modify the proposed rule by:

1. Retaining the fish consumption rate of 175 grams per day for Washington citizens. This is much more realistic than the current formula of 6.5 grams per day and a step in the right direction towards protecting the most exposed populations of the fish-consuming public. It should be noted that the Spokane Tribal fish consumption rate is set at 860 grams per day.
2. Adopting a uniform cancer risk level no less protective than 1×10^{-6} (i.e. one case of cancer in one million members of the public). The proposed cancer risk level of one case of cancer in one hundred thousand citizens is unacceptable. Further, this risk level should not allow exceptions for any pollutants, in particular for PCBs or arsenic.
3. Reject multi-discharger and state-wide variances of more than five years. Such variances do not hold to the spirit of the CWA in which the assumption is that we will continue to make progress in the struggle for improved water quality. Additionally, variances can be revisited in five year increments. This is a reasonable window of time to revisit the appropriateness of variances.

Additionally, it continues to put pressure on NPDES holders to demonstrate progress in the ultimate elimination of discharges (that are externalized environmental costs which impact the users of Washington's public waters and fish).

4. For the reasons stated above, we recommend that you reject compliance plans that last longer than the underlying permits for which the compliance plan is required. To extend the compliance plans merely confuses the re-issuance of NPDES permits and reduces the urgency of meeting the ultimate goal of "discharge elimination".
5. Revise the PCB criterion which, as proposed, would stay the same. PCBs are carcinogens and so toxic they were banned in the 1970s, but still occur in the discharges of some NPDES permit holders. In the Spokane River, we are obligated to meet Spokane Tribal water quality standards of 1.3 parts per quadrillion. This has not shut down industry along the river. In fact, it has redoubled the initiative to collaborate and solve the very complex problems of legacy and inadvertent PCB pollution. The work of the Spokane River Regional Toxics Task Force is a case in point.
6. Revise the arsenic criterion which, as proposed, would to become several hundred times less protective.
7. Ban mixing zones for bio-accumulative toxic pollutants such as PCBs.

A hallmark of being a Washington citizen is having a high quality of life due in part to the abundance of lakes, rivers, beaches and bays. This in turn, is directly connected to a rich, cultural heritage of enjoying the abundance of fish and shellfish in our waters. Adopting a water quality rule that does not protect the public from water pollution and polluted fish, is to deny this heritage, degrade the experience of living in Washington, jeopardize the public's health and ultimately to violate the public trust.

The Spokane Riverkeeper urges you to adopt a strong rule that ensures a better future for Washington Citizens.

Thank you very much for the opportunity to comment, and do not hesitate to call me with questions or clarifications on our recommendations.

Respectfully,



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